

Light Pollution Ordinance For the East Mountain Area

PUBLIC NOTICE

REGARDING ORDINANCE NO. 91-2

LIGHT POLLUTION ORDINANCE FOR THE EAST MOUNTAIN AREA COUNTY OF BERNALILLO, NEW MEXICO

The Bernalillo County Board of County Commissioners, on February 5, 1991, approved the Light Pollution ordinance for the East Mountain Area, No. 91-2. The Ordinance is intended to set standards for the regulation of outdoor lighting and to minimize light pollution on properties within the jurisdiction of the East Mountain Area.

ALL OUTDOOR LIGHT FIXTURES MUST COMPLY WITH THE ORDINANCE BY MARCH 5, 1996. NON-CONFORMING LIGHTS MUST BE REMOVED OR CONVERTED TO AN ALLOWED TYPE.

Bernalillo County Zoning Inspectors are inspecting properties. If violations exist, properties will be posted with a written notice or the property owners will be contacted by mail. Property owners will be requested to remove or convert lighting in violation of the ordinance by March 5, 1996.

Light pollution is defined as artificial light which causes a detrimental effect on the environment, interferes with the enjoyment of the night sky, causes undesirable glare, or unnecessary illumination of adjacent properties.

Low pressure sodium lamps, and florescent warm white and natural lamps are preferred light sources minimize detrimental effects, such as intensity and color.

Prohibited types of lights include:

- mercury vapor fixtures and lamps used as outdoor lighting
- laser source light, or any similar high intensity light for outdoor advertising or entertainment when projected above a horizontal plane
- searchlights for advertising
- illuminated outdoor advertising signs not equipped with automatic controls and operated between the hours of 11:00 p.m. and sunrise.

Copies of the Light Pollution Ordinance No. 91-2 are available for review at:

County of Bernalillo
Zoning, Building and Planning Office
600 2nd St. NW, Suite 400
Albuquerque, New Mexico 87102

If you have any questions or desire additional information, contact a Bernalillo County Zoning Code Enforcement Inspector at (505) 924-3700.

ORDINANCE NO. 91-2

LIGHT POLLUTION ORDINANCE FOR EAST MOUNTAIN AREA

SECTION 1. Title.

This ordinance shall be known as the "Light Pollution Ordinance for the East Mountain Area".

SECTION 2. Declaration of Necessity.

Whereas, the regulation of the use of outdoor light fixtures can substantially reduce light pollution, and conserve energy; and

Whereas, it is pleasing to the senses and intellect of mankind to be able to gaze at the night sky with a minimum of interference from light pollution; and

Whereas, the residents of the East Mountain Area enjoy gazing into the night sky; and

Whereas, the residents of the East Mountain Area reside in an area of Bernalillo County that is unique to the East Mountain Area; and

Whereas, the East Mountain Area is designated as a rural area and the Albuquerque/Bernalillo County Comprehensive Plan recognizes the importance to the preservation of the distinct character and value of this portion of the region and further, that the unique rural attributes and environmental conditions warrant development standards that differ from those applied in urban areas.

Whereas, the East Mountain Area lies east of three panoramic mountain ranges; the Sandias, the Manzanitos, and the Manzanos and more specifically east of Range 4 East, New Mexico Prime Meridian.

Now, therefore, the Board of County Commissioners for the County of Bernalillo hereby, finds and declares that the East Mountain Area sky is an important aspect of our environment and that it is necessary, essential and a public purpose for the County of Bernalillo to regulate the use of outdoor light fixtures in the East Mountain Area to minimize light pollution which has a detrimental effect on the environment, amateur astronomy, and enjoyment of the night sky and causes unnecessary illumination of adjacent properties; and in order to conserve electrical energy.

SECTION 3. Area Included in Ordinance.

East Mountain Area for the purpose of this ordinance shall consist of the eastern end of Bernalillo County bounded on the north by the Bernalillo/Sandoval County Line; on the east by the Bernalillo/Santa Fe County and Bernalillo/Torrance County Line; on the south by the Bernalillo/Torrance County Line and on the west by the National Forest Land of the Sandia and Manzano Mountains and Lands in Tijeras Canyon east of the eastern city limits of Albuquerque.

SECTION 4. Purpose and Intent.

The purpose of this ordinance is to create standards for Outdoor lighting so that its use does not unreasonably interfere with the reasonable use and enjoyment of adjacent property within the jurisdiction and with astronomical observations. It is the intent of this Code to encourage, through regulation of the types, kinds,

construction, installation and uses of outdoor electrically powered illuminating devices lighting practices and systems which will conserve energy while increasing nighttime safety, utility, security, and productivity.

SECTION 5. Interpretation & Conflict.

The regulations, restrictions, and requirements of this ordinance shall be held to be the minimum standards to carry out the purpose of this ordinance. This ordinance is not intended to interfere with, abrogate, or annul any easement, covenant or other agreement between parties, or other valid ordinance. Where this ordinance imposes a greater restriction upon the use of an outdoor light fixture, regulations, easements, covenants, agreements, or ordinances, the provisions of this ordinance shall control.

SECTION 6. Approved Materials and Methods of Construction or Installation/Operation.

The provisions at this ordinance are not intended to prevent the use of any design, material or method of installation or operation not specifically prescribed by this ordinance provided any such alternate has been approved. The Zoning administrator may approve any such proposed alternate provided he finds that it:

- (a) is equivalent to the applicable specific requirements of this code; and
- (b) is otherwise satisfactory and complies with the intent of this code; or
- (c) has been designed or approved by a registered professional engineer and content and function promotes the intent of this Code.

SECTION 7. Definitions.

As used in this Code, unless the context clearly indicates otherwise, certain words and phrases shall mean the following. The word "shall" is mandatory and the word "may" is permissive.

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| Section 7.1 | Person means any individual, tenant, lessee, owner, or any commercial entity including but not limited to firm, business, partnership, joint venture, or corporation. |
| Section 7.2 | Installed means the attachment, or assembly fixed in place, whether or not connected to a power source, of any outdoor light fixture. |
| Section 7.3 | <p>Outdoor light fixtures means outdoor electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar devices, permanently installed or portable, used for illumination or advertisement.</p> <p>Such devices shall include, but are not limited to, search, spot and flood lights for:</p> <ul style="list-style-type: none">(a) buildings and structures(b) recreational areas(c) parking lot lighting(d) landscape lighting(e) security lighting(f) billboards and other signs (advertising or other) |

- (g) street lighting
- (h) product display area lighting
- (i) building overhangs and open canopies.

- Section 7.4** Fully shielded shall mean outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane, as certified by photometric test report.
- Section 7.5** Partially shielded shall mean outdoor light fixtures shielded or constructed so that no more than ten percent (10%) of the light rays are emitted by the installed fixture at angles above the horizontal plane as certified by photometric test report.
- Section 7.6** Filtration are those outdoor light fixtures which have glass, an acrylic, or translucent enclosures (quartz glass does not meet this requirement.)
- Section 7.7** Light Pollution, artificial light which causes a detrimental effect on the environment, enjoyment of the night sky or causes undesirable glare or unnecessary illumination of adjacent properties.
- Section 7.8** Non-conforming outdoor light fixtures, which do not conform to the Light Pollution regulations and which lawfully existed on the effective date of those regulations with which it does not conform.

SECTION 8. Shielding.

All non-exempt outdoor light fixtures shall have shielding as required by the table set forth in this section.

SHIELDING REQUIREMENTS TABLE

| <u>FIXTURE</u> | <u>FIXTURE LAMP TYPE</u> | <u>SHIELDED</u> | <u>FILTER</u> |
|--|--------------------------|------------------------------------|---------------|
| LOW Pres | LOW Pressure Sodium | Partially | None |
| High Press | High Pressure Sodium | Fully | None |
| Metal Halide | | Fully (2) | Yes(6) |
| Fluorescent | | Fully(3) | Yes(5) |
| Quartz(4) | | Fully | None |
| Incandescent greater than 160W | | Fully | None |
| Incandescent 160W or Less | | None | None |
| Any light source of 50W or less | | None | None |
| Glass tubes filled with Neon, Argon, Krypton | | None | None |
| Other Sources | | AS APPROVED BY THE ZONING OFFICIAL | |

Footnotes

1. This is the preferred light source to minimize undesirable light emission into the night sky affecting astronomical observations.
2. Metal halide lighting used primarily for display purposes shall not be used for security lighting after 11:00 p.m. Metal halide lamps shall be installed only in enclosed luminaries.

3. Outdoor advertising signs of the type constructed of translucent material and wholly illuminated from within do not require shielding. Dark backgrounds with light lettering or symbols are preferred, to minimize detrimental effects. Unless conforming to the above dark background preference, total lamp wattage per property shall be less than 41 watts.
4. For the purposes of this ordinance, quartz lamps shall not be considered an incandescent light source.
5. Warm White and Natural Lamps are preferred to minimize detrimental effects.
6. For filtering requirements for metal halide fixture lamp types see Section 9.

Section 8.1 Any outdoor lighting used for security, landscape or building illumination, game or sport court lighting, or area illumination shall be additionally shielded so as to reflect no more than one foot candle onto any adjacent residentially zoned property.

SECTION 9. Filtration.

Metal halide fixture lamp types shall be filtered. "Filtered" means any outdoor light fixture which has a glass, acrylic or translucent enclosure of the light source (quartz glass does not meet this requirement).

SECTION 10. Outdoor Advertising signs.

Section 10.1 Top Mounted Fixtures Required. Lighting fixtures used to illuminate an outdoor advertising sign shall be mounted on the top of the sign structure. All such fixtures shall comply with the shielding requirements of Section 8.

Section 10.2 **Prohibitions.** See minor Sections 12.5 and 12.6 for prohibitions.

SECTION 11. Submission of Plans and Evidence of Compliance with Code: Subdivision Plats.

Section 11.1 **Submission Contents.** The applicant, for any permit required by any provision of the laws of this jurisdiction in connection with proposed work involving outdoor light fixtures shall submit (as part of the application for permit) evidence that the proposed work will comply with this Code. The submission shall contain but shall not necessarily be limited to the following, all or part of which may be required elsewhere in the laws of this jurisdiction upon application for the required permit:

(a) plans indicating the location on the premises, and the type, of illuminating devices, fixtures, lamps, supports, reflectors, and other devices;

(b) description of the illuminating devices, fixtures, lamps, supports, reflectors, and other devices and the description may include, but is not limited to, catalog cuts by manufacturers and drawings (including sections where required);

(c) photometric data, such as that furnished by manufacturers, or similar, showing the angle of cut off of emissions.

Section 11.2 **Additional Submission.** The above-required plans, descriptions, and data shall be sufficiently complete to enable the plans examiner to readily determine whether compliance with the requirements of this Code will be secured. If such plans, descriptions and data cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures or lamps proposed, the applicant shall additionally submit as

evidence of compliance to enable such determination such certified reports of tests as will do so provided that these tests shall have been performed and certified by a recognized testing laboratory.

Section 11.3 **Subdivision Plat Certification.** If any subdivision will have public outdoor lighting, the plat shall contain a statement certifying that the applicable provisions of the Light Pollution Ordinance for the East Mountain Area will be adhered to.

Section 11.4 **Lamp or Fixture Substitution.** Should any outdoor light fixture of the type of light source therein be changed after the permit has been issued, a change request must be submitted to the Zoning Administrator for his approval, together with adequate information to assure compliance with this Code, which must be received prior to substitution.

SECTION 12. **Prohibitions.**

Section 12.1 **Mercury Vapor Fixtures and Lamp.** The installation of any mercury vapor fixture or lamp for use as outdoor lighting is prohibited, except that until (date to come), the provisions of this subsection shall not apply to any replacement lamp.

Section 12.2 **Laser Source Light.** Except as provided in Sub-Section 12.3, the use of laser source light or any similar high-intensity light for outdoor advertising or entertainment, when projected above the horizontal, is prohibited.

Section 12.3 **Searchlights.** The operation of searchlights for advertising purposes is prohibited.

Section 12.4 **Recreational Facilities.** No outdoor recreational facility, public or private, shall be illuminated after 11:00 p.m. except to conclude a specific recreational or sporting event or any other similar activity conducted at or in the facility which was in progress under such illumination prior to 11:00 p.m.

Section 12.5 **Outdoor Advertising Off-Premise Signs.** Electrical illumination of outdoor advertising off-site signs is prohibited in the East Mountain Area.

Section 12.6 **Illuminated Outdoor Advertising Signs.** All illuminated outdoor advertising signs shall be equipped with an automatic time controller that prevents the operation of the lighting fixtures between the hours of 11:00 p.m. and sunrise.

Section 12.7 **Outdoor Building and Landscaping Illumination.** The unshielded outdoor illumination of any building or landscaping is prohibited except with incandescent fixtures with lamps of 160 watts or less.

SECTION 13. **Administration.**

Section 13.1 **Powers and Duties.** The Zoning Administrator shall enforce this ordinance, and in addition thereto and in furtherance of said authority he shall:

(a) Issue all lighting certificates as required, and make and maintain records.

- (b) Conduct inspection of buildings, structures, and lighting fixtures to determine compliance with these regulations.
- (c) Maintain permanent and correct records of this ordinance.
- (d) Provide and maintain a public information bureau relative to all matters arising out of this ordinance.
- (e) Issue certificates of occupancy for non-conforming uses existing at the effective date of this ordinance.
- (f) In the event any lighting fixture is installed, erected, constructed, reconstructed, altered, repaired, converted or maintained in violation of this ordinance, in addition to other remedies, may initiate any appropriate action or proceeding to prevent such unlawful action, to restrain, correct or abate such violation, to prevent any illegal act.
- (g) Investigate all applications for temporary exemption. The request for temporary exemption shall contain the following information:
 - (1) specific exemption or exemptions requested
 - (2) type and use of outdoor light fixture involved
 - (3) duration of time for requested exemption
 - (4) type of lamp and calculated lumens
 - (5) total wattage of lamp or lamps
 - (6) proposed location on premises of the outdoor light fixture(s)
 - (7) previous temporary exemptions if any and addresses of premises thereunder
 - (8) physical size of outdoor light fixture(s) and type of shielding provided
 - (9) such other data and information as may be required by the zoning official.

Section 13.2

Applications and Filing Fees.

- a) Applications. An application for a temporary exemption shall be filed with the Zoning Administrator on a form and accompanied by such data and information as he may prescribe.
- b) Filing Fee. A fee of \$100.00 shall be paid at the time an application for temporary exemption is filed.
 - (1) When an application for a temporary exemption is withdrawn after scheduling and advertising for public hearing by the Zoning Administrator, the filing fee shall not be refunded to the applicant.

Section 13.3 Hearing Date and Notice. Upon the filing of an application for a temporary exemption, the Zoning Administrator shall set a time for holding a public hearing thereon, and shall give notice of hearing by at least one publication in a daily newspaper of general circulation in Bernalillo County at least 15 days prior to the hearing. Written notice of the hearing shall be mailed not less than five (5) days before the date of the hearing to the owners of all property within 300 feet of the exterior boundaries, excluding public rights-of-way, of the property which is the subject of the application, using for this purpose the last known name and address of such owners shown in records of the Bernalillo County Assessor.

Section 13.4 Determination by the Zoning Administrator. Upon making a ruling or determination, relative to an application for a temporary exemption, the Zoning Administrator shall forthwith furnish a copy thereof to the applicant and the Board of Adjustment. Such determination shall be final except that an appeal may be taken as provided in the next subsection.

Section 13.5 Appeals. An appeal of a determination of the Zoning Administrator may be made in the manner prescribed in the following subsection. No temporary exemption permit shall become effective until after an elapsed period of fifteen (15) days from the date the written determination is made, during which time an appeal may be filed with the Board of Adjustment by any person aggrieved, or by any office board, department or bureau of the County.

Section 13.6 Board of Adjustment.

- (a) Powers and Duties. The Board of Adjustment shall have the following powers:
 - (1) To hear and determine appeals where it is alleged there is error or abuse of discretion in any order, requirements, decision or determination made by the Zoning Administrator in the enforcement of the provision of the ordinance.
 - (2) To hear and determine appeals from the ruling, decisions, and determination, of the Zoning Administration granting or denying applications for variation from any requirements of this ordinance or granting or denying applications for temporary exemption authorized by this ordinance.
 - (3) The Board shall fix a reasonable and regular time and place for meetings, and it shall adopt such rules as may be necessary and proper to authorize its proceedings. Such rules shall be in conformance with requirements of this ordinance. All meetings shall be opened to the public.

The Board shall keep minutes of its proceedings, including a record of the vote of each member on each action, and such minutes shall be public records.

Section 13.7 Appeals.

- (a) An appeal shall be made in writing and shall be filed in duplicate in the office of the Zoning Administrator on forms provided by the Board of Adjustment. Such appeal must set forth specifically wherein it is claimed there was an error or an abuse of discretion by this action, or where the decision is not supported by evidence in the matter. A filing fee of \$60.00 shall accompany each appeal. When an appeal is withdrawn the filing fee shall not be refunded.

- (b) Any appeal not filed within 15 days after the rendition in writing of the decision appealed from shall be dismissed by the Board of Adjustment.
- (c) Within 10 days after the filing of the appeal the Zoning Administrator shall transmit to the Board of Adjustment all papers involved in the proceedings, a copy of his findings and determination relative thereto, and one copy of the appeal. In addition, he may make and transmit to the Board of Adjustment such supplementary report as he may deem necessary to present clearly the facts and circumstances of the case.
- (d) Upon receipt of the record, the Board of Adjustment shall set the matter for hearing, and give notice by mail of the time, place, and purpose thereof to the appellant, to the Zoning Administrator, and to any interested party who has requested in writing to be so notified. No other notice thereof need be given except in those cases hereinafter mentioned.
- (e) Upon hearing of such appeals, said Board of Adjustment may enforce change or modify the ruling, decision or determination appealed from, or, in lieu thereof, make such other or additional determination as it shall deem proper.
- (f) The decision of the Board of Adjustment upon the appeal shall be in writing, concurred to by a majority of the members present of the Board of Adjustment, which shall forthwith transmit a copy thereof to the appellant and to the Zoning Administrator. Any such decision shall in all instances, be the final administrative decision and shall be subject to judicial review as may be provided by law.
- (g) No determination of the Zoning Administrator or Board of Adjustment permitting a variance or temporary exemption shall be valid for a period larger than six (6) months.

Section 13.8 Zoning Certification.

No Building permit or zoning permit shall be issued by the Zoning Administrator unless the application of such permit has been examined by the office of the Zoning Administration indicating that the use complies with all the regulations of this ordinance. Any permit or certification issued in conflict with the provisions of this ordinance shall be null and void.

SECTION 14. Non-Conforming Use.

Section 14.1 All outdoor light fixtures lawfully installed prior to and operable on the effective date of this ordinance shall be removed or converted to a conforming use within five (5) years after the effective date of this ordinance.
During this five (5) year period the owner of any non-conforming lighting fixture shall have the right to repair or remodel such non-conforming fixture, provided that such changes shall not enlarge the overall size of the fixtures or increase the number, of fixtures located on the property and shall in no way be deemed to affect the five (5) year amortization period set out herein.

Section 14.2 All signs, billboards or advertising structures which do not conform with the provisions of this ordinance shall be made to conform or shall be removed within five (5) years after the effective date of the ordinance.

Section 14.3 Fossil Fuel Light. All outdoor light fixtures producing light directly by the combustion of natural gas or other fossil fuels are exempt from all requirements of this Code.

Section 14.4 County, State and Federal Facilities. Outdoor light fixtures installed on, in and in connection with those facilities and land owned or operated by the Federal Government, the State of new Mexico, County of Bernalillo or any department, division, agency or instrumentality thereof, are exempt from requirements of this Code. Voluntary compliance with the intent of this Code at those facilities is encouraged.

SECTION 15. Penalty.

Any person who shall violate any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding \$300.00 or imprisonment in the County Jail for a period not exceeding 90 days, or both fine and imprisonment. Any violation continued for a period of 15 days after conviction shall be prosecuted and treated as a separate offense.

SECTION 16. Severability.

The provisions of this ordinance are severable, and if any provision, sentence, clause, section, or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, the illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance or their application to the persons or circumstances.

It is hereby declared to be the intent of the Board of County Commissioners that this ordinance would have been adopted if such illegal, invalid, or unconstitutional provision, sentence, clause, section, or part had not been included therein, and if the person or circumstances to which this ordinance or part thereof is inapplicable had been specifically exempted therefrom.

Approved by the Bernalillo County Board of County Commissioners at the February 5, 1991,
Commission Meeting.

/S/ PATRICK J. BACA
Patrick J. Baca, Chairman

/S/ PATRICIA "PAT" CASSIDY
Patricia "Pat" Cassidy, Vice Chair

[unsigned]
Eugene M. Gilbert, Member

/S/ JACQUELYN K. SCHAEFER
Jacquelyn K. Schaefer, Member

[unsigned]
Albert "Al" Valdez

Attest:

[signature unreadable], Deputy
for Gladys M. David, County Clerk
